

OFFICIAL COPY

Fresno, California

October 3, 2000

The City Council met in regular session at the hour of 9:09 a.m. in the Council Chambers, City Hall, on the day above written.

Present:	Garry Bredefeld	Acting Council President
	Chris Mathys	Councilmember
	Henry Perea	Councilmember
	Sal Quintero	Councilmember
	Dan Ronquillo	Councilmember
	Ken Steitz	Councilmember
	Tom Boyajian	Council President

Andy Souza, Interim City Manager
Hilda Cantu Montoy, City Attorney
Rebecca Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Reverend Bob Pennington, The Maroa Home, gave the invocation, and Acting President Bredefeld led the Pledge of Allegiance to the Flag.

PROCLAMATION OF CIVIL WAR REVISITED WEEKEND

PROCLAMATION OF FIRE PREVENTION WEEK

PROCLAMATION OF GERMAN AMERICAN HERITAGE MONTH - COUNCILMEMBER STEITZ

PROCLAMATION OF HUNT FAMILY DAY - COUNCILMEMBER MATHYS

CERTIFICATES OF COMMENDATION TO CLOVIS WEST BABE RUTH 13-YEAR OLD PREP PACIFIC
SOUTHWEST REGIONAL CHAMPIONS - ACTING PRESIDENT BREDEFELD

The above proclamations and certificates were read and presented.

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APPROVE MINUTES OF SEPTEMBER 26, 2000

On motion of Councilmember Quintero, seconded by Councilmember Perea, duly carried, RESOLVED, the minutes of September 26, 2000, approved as submitted.

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APPROVE AGENDA

CONCERNS WITH TIMING/PUBLICATION OF PRESS RELEASES AND DIRECTION TO STAFF TO REVIEW PROCESS FOR RELEASES TO ALLOW SUFFICIENT TIME FOR COUNCIL TO ATTEND EVENTS - COUNCILMEMBER QUINTERO

Direction made.

(10:45 A.M.) HEARING ON PRIME CONTRACTOR'S REQUEST PURSUANT TO PUBLIC CONTRACT CODE SECTION 4017 TO SUBSTITUTE SUBCONTRACTORS BASED ON CLAIM OF FAILURE TO PERFORM FOR THE PILIBOS SOCCER PARK PROJECT

Continued to October 17th at 10:45 a.m. at the direction of staff.

REQUEST FOR REPORTS ON: (1) NUMBER AND TYPES OF LAWSUITS FILED AGAINST THE POLICE DEPARTMENT INCLUDING SETTLEMENTS, AND (2) STATUS OF STATE ATTORNEY GENERAL'S OFFICE INVESTIGATION ON ISSUES WITHIN THE DEPARTMENT'S PROPERTY ROOM - COUNCILMEMBER PEREA

Request made and brief discussion ensued on the investigation and the need for the City Attorney and City Manager to be involved in the matter.

DIRECT STAFF TO SCHEDULE ON THE OCTOBER 17TH AGENDA A REPORT FROM THE POLICE CHIEF ON POLICE ISSUES - COUNCILMEMBER STEITZ

Direction made with Councilmember Steitz speaking in support of the department and on the decline in the number of lawsuits and disciplinary actions. The matter was set for October 17th at 11:00 a.m.

On motion of Councilmember Perea, seconded by Councilmember Ronquillo, duly carried, RESOLVED, the **AGENDA** hereby approved, by the following vote:

Ayes	:	Bredefeld, Mathys, Perea, Quintero, Ronquillo, Steitz, Boyajian
Noes	:	None
Absent	:	None

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ADOPT CONSENT CALENDAR:

(1A-1) APPROVE TWO AGREEMENTS WITH ERM-WEST, INC., TO PROVIDE PROFESSIONAL ENGINEERING AND RELATED ENVIRONMENTAL SUPPORT SERVICES FOR: (1) REMOVAL OF THREE UNDERGROUND STORAGE TANKS IN THE FIRE TRAINING AREA, AND (2) THE COMPLETION OF A SITE INSPECTION AT OLD HAMMER FIELD; AND DIRECT THE DIRECTOR OF TRANSPORTATION/DESIGNEE TO EXECUTE THE AGREEMENTS TO CONDUCT THE VARIOUS ACTIVITIES INCLUDING PERMITTING AND REMOVAL OF THE USTs AND PIPING, SOIL SAMPLE COLLECTION AND ANALYSIS, EXCAVATION BACKFILL, AND PREPARATION OF A REPORT

1. * RESOLUTION NO. 2000-286 - 43RD AMENDMENT TO AAR 2000-183 APPROPRIATING \$207,500 OF AIRPORT ENTERPRISE FUNDS FOR THE PURPOSE OF FUNDING THE TWO AGREEMENTS WITH ERM-WEST, INC. FOR STAFF COSTS AND TO REIMBURSE THE AIRPORTS CAPITAL FUND FOR PRELIMINARY WORK ACCOMPLISHED

(1A-2) * RESOLUTION NO. 2000-287 - 27TH AMENDMENT TO AAR 2000-183 RE-APPROPRIATING \$1,246,100 OF THE UNOBLIGATED LOCAL LAW ENFORCEMENT BLOCK GRANT (LLEBG) 99 PROGRAM FUNDS FROM FY 2000 TO CONTINUE THE ACTIVITIES APPROVED UNDER THE LLEBG 99 PROGRAM

On motion of Acting President Bredefeld, seconded by Councilmember Ronquillo, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Bredefeld, Mathys, Perea, Quintero, Ronquillo, Steitz, Boyajian
Noes	:	None
Absent	:	None

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REQUEST TO HEAR UNSCHEDULED ORAL COMMUNICATIONS

On motion of Councilmember Ronquillo, seconded by Acting President Bredefeld, duly carried, RESOLVED, Unscheduled Oral Communications to be heard at this time, by the following vote:

Ayes	:	Bredefeld, Mathys, Perea, Quintero, Ronquillo, Steitz, Boyajian
Noes	:	None
Absent	:	None

UNSCHEDULED ORAL COMMUNICATIONS

APPEARANCE BY ELLINGTON JORDAN REGARDING SIDEWALK PROBLEMS AND SAFETY CONCERNS AT “C” AND CALAVERAS STREETS AND REQUEST FOR EXPEDIENT ACTION

Appearance made.

APPEARANCE BY BARBARA HUNT REGARDING DISTRICT 3 INFRASTRUCTURE NEEDS/CONCERNS

Appearance made **(2 - 0)**.

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(10:00 A.M.) HEARING ON PLAN AMENDMENT NO. A-00-32, REZONING APPLICATION NO. R-99-48 AND ENVIRONMENTAL ASSESSMENT NO. A-99-32, R-99-48, FILED BY ROGER PETERSEN, PROPERTY LOCATED AT THE NORTHWEST CORNER OF N. CEDAR AND E. TEAGUE AVENUES

1. CONSIDER ENVIRONMENTAL ASSESSMENT/MITIGATED NEGATIVE DECLARATION NO. A-99-32, R-99-48, DATED FEBRUARY 17, 2000

2. RESOLUTION NO. 2000-288 - AMENDING THE WOODWARD PARK COMMUNITY PLAN

3. BILL NO. B-64 - ORDINANCE NO. 2000-66 - AMENDING THE OFFICIAL ZINE MAP TO REZONE FROM AE-5/UGM TO R-P/UGM/CZ

President Boyajian announced the time had arrived to consider the issue and opened the hearing. Planning Manager Haro reviewed the staff report as submitted and recommended approval.

Speaking in support of the project were: Roger Petersen, Applicant; Barbara Hunt, 944 “F” Street; Shelly Johnson, 8665 N. Cedar #109; John Long, 8665 N. Cedar #115, who also submitted a petition in support; and Peter Ruggerello, who stated he supported the project but had a concern with Teague Avenue access and explained.

Upon call, no one else wished to be heard and President Boyajian closed the public testimony portion of the hearing.

Upon question of Acting President Bredefeld, Mr. Petersen and Senior Traffic Engineering Technician Madewell addressed Mr. Ruggerello’s concerns and responded to the substation’s construction timeline. Acting President Bredefeld spoke in support stating the substation was long overdue and made a motion to approve staff’s recommendation. Councilmember Steitz stated he wanted assurance the Stone Soup substation at El Dorado Park would stay open, with Councilmember Perea responding it would remain open as a satellite office and explained.

On motion of Acting President Bredefeld, seconded by Councilmember Ronquillo, duly carried, RESOLVED, the finding of a Mitigated Negative Declaration for Environmental Assessment No. A-99-32, R-99-48, dated February 17, 2000, hereby approved; the above entitled Resolution No. 2000-288 approving Plan Amendment No. A-99-32 hereby adopted; and the above entitled Bill No. B-64 rezoning the site *subject to the conditions* outlined in the staff report adopted as Ordinance No. 2000-66, by the following vote:

Ayes	:	Bredefeld, Mathys, Perea, Quintero, Ronquillo, Steitz, Boyajian
Noes	:	None
Absent	:	None

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(10:15 A.M.) HEARING ON REZONING APPLICATION NO. R-00-022 AND ENVIRONMENTAL FINDINGS, FILED BY CENTRAL CALIFORNIA RADIOLOGY MEDICAL GROUP, PROPERTY LOCATED AT 2407 E. SUSSEX WAY

1. BILL NO. B-65 - ORDINANCE NO. 2000-67 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM R-A TO R-P

President Boyajian announced the time had arrived to consider the issue and opened the hearing. Planning Manager Beach gave a brief overview of the issue and recommended approval.

Barbara Hunt, 944 “F” Street, spoke to the issue.

Upon call, no one else wished to be heard and President Boyajian closed the hearing.

On motion of Councilmember Perea, seconded by Councilmember Quintero, duly carried, RESOLVED, the categorical exemption for Environmental Assessment No. R-00-022 hereby approved; and the above entitled Bill No. B-65 rezoning the site adopted as Ordinance No. 2000-67, by the following vote:

Ayes : Bredefeld, Mathys, Perea, Quintero, Ronquillo, Steitz, Boyajian
Noes : None
Absent : None

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(10:20 A.M.) HEARING ON REZONING APPLICATION NO. R-00-024 AND ENVIRONMENTAL FINDINGS, FILED BY PAUL AND SUSAN LUCICH, PROPERTY LOCATED AT 5602 E. BELMONT AVENUE
1. BILL NO. B-66 - ORDINANCE NO. 2000-68 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM R-A AND C-6/CZ TO C-6/CZ SUBJECT TO ACCESS RESTRICTIONS

President Boyajian announced the time had arrived to consider the issue and opened the hearing. Planning Manager Beach gave a brief overview of the issue stating this was a rezone housekeeping matter and recommended approval.

Barbara Hunt, 944 “F” Street, spoke to the issue.

Upon call, no one else wished to be heard and President Boyajian closed the hearing.

On motion of Councilmember Quintero, seconded by Councilmember Steitz, duly carried, RESOLVED, the categorical exemption for Environmental Assessment No. R-00-024 hereby approved; and the above entitled Bill No. B-66 rezoning the site *subject to the access restriction* adopted as Ordinance No. 2000-68, by the following vote:

Ayes : Bredefeld, Mathys, Perea, Quintero, Ronquillo, Steitz, Boyajian
Noes : None
Absent : None

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(10:25 A.M.) HEARING ON REZONING APPLICATION NO. R-00-026 AND ENVIRONMENTAL FINDINGS, FILED BY VINEYARD CHRISTIAN FELLOWSHIP OF CLOVIS, A CALIFORNIA CORPORATION, PROPERTY LOCATED AT 4910 N. WOODWARD AVENUE
1. BILL NO. B-67 - ORDINANCE NO. 2000-69 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM R-3/CZ TO R-3/CZ WITH MODIFIED CONDITIONS

President Boyajian announced the time had arrived to consider the issue and opened the hearing. Planning Manager Beach gave a brief overview of the issue and recommended approval.

Barbara Hunt, 944 “F” Street, spoke to the issue.

Upon call, no one else wished to be heard and President Boyajian closed the hearing.

On motion of Councilmember Steitz, seconded by Councilmember Ronquillo, duly carried, RESOLVED, the categorical exemption for Environmental Assessment No. R-00-026 hereby approved; and the above entitled Bill No. B-67 rezoning the site *with modified conditions* adopted as Ordinance No. 2000-69, by the following vote:

Ayes : Bredefeld, Mathys, Perea, Quintero, Ronquillo, Steitz, Boyajian
Noes : None
Absent : None

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(5A) INITIATE THE NECESSARY ENVIRONMENTAL ASSESSMENT PROCESS IN ORDER TO AMEND THE HISTORIC PRESERVATION ORDINANCE

1. * BILL - AMENDING FRESNO MUNICIPAL CODE SECTION 13-412(h) RELATING TO HISTORIC RESOURCES - COUNCILMEMBER STEITZ (*REMOVED FROM THE AGENDA*)

Councilmember Steitz gave a brief overview, questioned if the issue was properly noticed to initiate the process (with City Attorney Montoy stating all requirements had been met), and clarified only the initiation of the environmental process was at issue this date and the ordinance was being removed from the agenda at this time.

Barbara Hunt, 944 “F” Street, spoke to the issue.

Discussion ensued with Ms. Montoy, Development Director Yovino and Councilmember Steitz responding to questions and comments relative to pending litigation, purpose or value of initiating the process, timeline and cost to initiate, purpose of the ordinance, if the issue was related to the MARS (memorial auditorium) lawsuit, if current guidelines in the ordinance protected buildings, and the need at times for the Secretary of Interior’s guidelines. Councilmember Steitz urged Council’s support stating this would allow Council to have the final say on projects, would provide less of an opportunity for groups to sue the City, and would allow for local control and decision making. Councilmember Mathys spoke in support stating Veterans had to go to court just to be able to exercise their rights and fly the flag.

(3 - 0) On motion of Councilmember Steitz, seconded by Councilmember Mathys, duly carried, **RESOLVED**, staff directed to initiate the necessary environmental assessment process in order to amend the Historic Preservation Ordinance, by the following vote:

Ayes : Bredefeld, Mathys, Quintero, Steitz
Noes : Perea, Ronquillo, Boyajian
Absent : None

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(5B) * RESOLUTION NO. 2000-289 - 47TH AMENDMENT TO AAR 2000-183 APPROPRIATING \$6,200 OF DISTRICT 5'S GENERAL FUND INFRASTRUCTURE BUDGET TO FUND VARIOUS COMMUNITY EVENTS (\$2,500 FOR CONVENTION CENTER FEES FOR FMAAA’S ANNUAL SENIOR CITIZEN’S THANKSGIVING LUNCHEON; \$500 FOR SUNNYSIDE HIGH SCHOOL RUN TO READ FOR LITERACY; \$1,000 FOR SOUTHEAST FRESNO NEIGHBORHOOD WATCH 3RD ANNUAL TRI-TIP AND PASTA DINNER; \$1,200 FOR STAGE RENTAL USED IN THE VETERANS’ OPERATION STAND DOWN EVENT; AND \$1,000 FOR VETERANS’ CONVALESCENT AND PRISON MINISTRIES OF THE GOSPEL) - COUNCILMEMBER QUINTERO

On motion of Councilmember Quintero, seconded by Councilmember Ronquillo, duly carried, **RESOLVED**, the above entitled Resolution No. 2000-289 hereby adopted, by the following vote:

Ayes : Bredefeld, Mathys, Perea, Quintero, Ronquillo, Steitz, Boyajian
Noes : None
Absent : None

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(5C) * RESOLUTION NO. 2000-290 - 48TH AMENDMENT TO AAR 2000-183 APPROPRIATING \$8,400 OF DISTRICT 4'S GENERAL FUND INFRASTRUCTURE BUDGET TO FUND EXHIBIT HALL EXPENSES FOR THE OKTOBERFEST CELEBRATION - COUNCILMEMBER STEITZ

On motion of Councilmember Steitz, seconded by Acting President Bredefeld, duly carried, RESOLVED, the above entitled Resolution No. 2000-290 hereby adopted, by the following vote:

Ayes : Bredefeld, Mathys, Perea, Quintero, Ronquillo, Steitz, Boyajian
Noes : None
Absent : None

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(5D) STATUS REPORT BY THE COUNCIL EXECUTIVE ASSISTANT RELATIVE TO RETAINING A FINANCIAL CONSULTANT/AUDITOR, TO INCLUDE THE FOLLOWING: (1) SCOPE OF WORK, (2) DESIGN OF THE REQUEST FOR QUALIFICATIONS (RFQ), AND (3) IDENTIFICATION OF FUNDING SOURCES TO PAY FOR THE ANALYSIS - PRESIDENT BOYAJIAN

Status report given by Council Executive Assistant Ramsay-Stamps who responded to questions of President Boyajian relative to timeline for the RFQ process. Interim City Manager Souza stated his concern was the redundancy of Items 1-6 in the Scope of Services and explained adding a lot of the work/information being requested could be done internally. Councilmember Ronquillo and Acting President Bredefeld spoke in support of moving forward and clarified why Council was supporting an independent analysis. There was no further discussion.

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(5E) DIRECT CITY ATTORNEY TO PREPARE A LEGAL OPINION REGARDING THE CITY'S ABILITY TO LIMIT CAMPAIGN CONTRIBUTIONS TO PRIMARILY FORMED CANDIDATE/OFFICE HOLDER COMMITTEES - ACTING PRESIDENT BREDEFELD

Reviewed by Acting President Bredefeld who stated currently anyone who formed a committee or had large amounts of money could run campaign attacks on local candidates and explained, stated he felt they should be required to follow the same monetary restrictions as everyone else, noted this was an effort to right a wrong, and made a motion to direct the City Attorney as outlined.

Barbara Hunt, 944 "F" Street, spoke in opposition.

On motion of Acting President Bredefeld, seconded by President Boyajian, duly carried, RESOLVED, the City Attorney directed to prepare a legal opinion regarding the City's ability to limit campaign contributions to primarily formed Candidate/Office Holder Committees, by the following vote:

Ayes : Bredefeld, Mathys, Quintero, Boyajian
Noes : Perea, Ronquillo, Steitz
Absent : None

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(5F) * RESOLUTION NO. 2000-291 - 49TH AMENDMENT TO AAR 2000-183 APPROPRIATING \$1,000 OF DISTRICT 3'S GENERAL FUND INFRASTRUCTURE BUDGET TO FUND FULTON MALL ART RESTORATION - COUNCILMEMBER RONQUILLO

On motion of Councilmember Ronquillo, seconded by Councilmember Steitz, duly carried, RESOLVED, the above entitled Resolution No. 2000-291 hereby adopted, by the following vote:

Ayes : Bredefeld, Mathys, Perea, Quintero, Ronquillo, Steitz, Boyajian
Noes : None
Absent : None

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(6A) RESOLUTION NO. 2000-292 - APPLYING TO THE LOCAL AGENCY FORMATION COMMISSION (LAFCO) IN THE MATTER OF THE PROPOSED SHEPHERD-CHESTNUT NO. 3 REORGANIZATION

On motion of Acting President Bredefeld, seconded by Councilmember Quintero, duly carried, RESOLVED, Environmental Assessment No. A-00-04, R-00-06/C-00-66, finding that there is no substantial evidence that the annexation may have a significant adverse effect upon the environment approved, and the above entitled Resolution No. 2000-292 hereby adopted, by the following vote:

Ayes : Bredefeld, Mathys, Perea, Quintero, Ronquillo, Steitz, Boyajian
Noes : None
Absent : None

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(11:00 A.M.) CONTINUED HEARING TO CONSIDER A CARD ROOM PERMIT APPLICATION AND REQUEST BY DAVID LOUIS CHANDULLOY FOR TRANSFER OF 100% OWNERSHIP IN DUKE'S CARD ROOM LOCATED AT 2039 KERN STREET

President Boyajian announced the time had arrived to consider the issue and opened the hearing.

Speaking in support of approving the application and transfer were: John Cardot, Law Firm of Wild, Carter and Tipton, representing Eugene Childers, the present owner of Duke's; and Robert Campos, landlord/owner of Duke's building. Interim City Manager Souza clarified staff was recommending approval of the application/transfer *with conditions* outlined in the staff report. David Chanduloy, applicant, also spoke in support.

Speaking in opposition and/or to other issues were: Lowell Carruth, Law Firm of McCormick, Barstow, Shepherd, Wayte & Carruth, on behalf of Club One Casino, Inc., who also spoke to the issue of Joe Capps of Las Vegas being the banker at Duke's requesting he be investigated and explained; and Barbara Hunt, 944 "F" Street.

Upon call, no one else wished to be heard and President Boyajian closed the public testimony portion of the hearing.

Councilmember Quintero spoke to the issues of competition and the need to create additional revenue streams for the City, pointed out if the application were approved Mr. Chanduloy would be moving to Fresno which would ensure a better handle on the operations, and made a motion to approve staff's recommendation.

Police Detective Danisi, Mr. Chanduloy and Mr. Souza responded to questions of Councilmember Mathys and clarified issues relative to the background investigation conducted on Mr. Chanduloy, what specifically was investigated, if Mr. Chanduloy passed the background check, Mr. Chanduloy's business background, if Mr. Chanduloy would, in fact, be moving to Fresno if approved, if Mr. Chanduloy would work at the business and personally run the operation, amount of money Mr. Chanduloy had invested to date and planned to invest, if it was good business on the City's part to have multiple same-type operations/uses (**4 - 0**), conditions being imposed due to Mr. Chanduloy being at a disadvantage with ten tables compared to Club One's 40 tables, and Mr. Souza's comfort with recommending approval.

Councilmember Perea expressed concern stating there seemed to be a lot of red flags and Council needed to "scratch beneath the surface" of the staff report. Extensive discussion ensued with Ms. Montoy, Detective Danisi and Mr. Cardot responding to questions of Councilmember Perea and/or clarifying issues relative to whether the Police Department was aware and if it was true Mr. Chanduloy had been an investor in a Colorado casino and had an interest in another casino, Mr. Chanduloy's card game/gambling experience vs. business experience, crime problems/types of calls for police service at Duke's and Club One over the last two years, number of calls for service, type of banker Mr. Capps would be, loans from Mr. Capps to Mr. Childers, staff being "suspect" of Mr. Capps' and Mr. Childers' relationship, assurance that Mr. Capps would not be involved in the card room operation if approved, how to prohibit unsecured loans in the future, if the loans would be forgiven, the legality of professional banking in California, definition of banker, the loans and banking issues being separate issues, reality/clarification of the loan transaction, the extensive investigation Mr. Chanduloy went through by the Police Department and State Division of Gaming, how it would be known that Mr. Capps would not be a shadow owner, potential profits as a professional banker, conditions/code requirements placed on Duke's at the initial opening (with Councilmember Perea requesting staff provide a report on those conditions and outcome), and if an additional condition of approval could be imposed requiring Mr. Chanduloy to move to Fresno.

Detective Danisi, Ms. Montoy, Mr. Carruth, Chief Winchester and Jose Capps responded to questions of Acting President Bredefeld relative to what would happen to Duke's if the application were not approved, if Mr. Capps had been investigated, why he had not been investigated, why he could not be investigated since it appeared he was involved financially, if it was possible for bankers with criminal records to be the bank, the alleged illegal proposal made by Mr. Capps to Club One to bank and share in the profits, when the alleged proposal was made, police calls for service at Duke's, if Duke's had more calls than Club One, nature of police calls, if Club One had a "national banker", comfort level with Club One's management, if the Police Department was suspect or had concerns with the relationship between Mr. Childers and Mr. Capps, if the Police Department was in support of staff's recommendation, interest rates on the unsecured loans, the alleged proposal made to Mr. Sarrantos (**5 - 0**), and professional banking being a lucrative business. Acting President Bredefeld stated although he originally supported giving Duke's a chance he was having trouble supporting the transfer due to the suspect transaction and lingering questions.

Councilmember Ronquillo questioned the amount of revenue Duke's generated for the City and requested that amount for the record, noted he originally supported the two card rooms for competition and revenue to the City, advised he'd always had a problem with the location of Duke's and explained, and stated he still had that concern and would not be supporting the motion on that basis.

Councilmember Steitz spoke in support of the application emphasizing Mr. Chanduloy had been investigated twice; questioned if the bankers at Club One had been investigated (with Mr. Carruth stating they had not); questioned why a double standard was being entertained here; stressed card rooms were legal, questions had been answered, a process had been followed and a number of safeguards were in place; and concluded stating Council should be consistent and call in Club One's bankers. Ms. Montoy responded to questions of Councilmember Quintero and clarified issues relative to Club One's shareholders, Bud Long's transactions and legal problems, if Mr. Long was currently drawing income from Club One, why Club One was being allowed to stay open, and if Council could vote to close Club One until a decision was reached on Mr. Long's legal issues. Councilmember Quintero stated he saw the subject application as a transaction to help a business stay open. Brief discussion ensued on the term "banker" and confusion surrounding it, and Mr. Capps' business and legal name, with Chief Winchester and Mr. Capps responding to questions.

On motion of Councilmember Quintero, seconded by Councilmember Steitz, duly carried, RESOLVED, the transfer of 100% ownership in Duke's Card Room to David Louis Chanduloy hereby approved *subject to the conditions outlined in the staff report*, by the following vote:

Ayes	:	Mathys, Quintero, Steitz, Boyajian
Noes	:	Bredefeld, Perea, Ronquillo
Absent	:	None

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LUNCH RECESS - 12:43 P.M. - 2:20 P.M.

(11:30 A.M.) CLOSED SESSION:

(A) CONFERENCE WITH LABOR NEGOTIATOR - GOVERNMENT CODE SECTION 54957.6 - COUNCILMEMBER QUINTERO

CITY NEGOTIATORS: JORGE AGUINIGA AND ANDREW SOUZA

EMPLOYEE ORGANIZATIONS: FRESNO POLICE OFFICERS ASSOCIATION NON-SUPERVISORY POLICE (FPOA); INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 753 NON-MANAGEMENT FIRE (IAFF); AMALGAMATED TRANSIT UNION, LOCAL 1027 (ATU); AND INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL 753 FIRE MANAGEMENT (IAFF)

(B) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - GOVERNMENT CODE SECTION 54956.9, SUBDIVISION (a) - CASE NAME: CITY OF FRESNO V. LOMBARDI AND ALL RELATED CROSS ACTIONS

(C) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - GOVERNMENT CODE SECTION 54956.9, SUBDIVISION (b) - SIGNIFICANT EXPOSURE TO LITIGATION - CASE NAME: CITY OF FRESNO V. PATRIOT HOMES, ET AL.

reconvened in open session at 2:53 p.m.

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(2:00 P.M.) DISCUSSION REGARDING TELECOMMUNICATIONS CONTRACT - PRESIDENT BOYAJIAN

Cheryl Laning, Director of External Affairs, Pacific Bell, stated meetings with the City Manager were on-going and requested the matter be laid over one week along with implementation of the current telecommunications contract with MCI.

Councilmember Perea noted the contract had been signed on September 26th and questioned if it could be suspended until discussions were completed, with City Attorney Montoy advising the agreement was a signed and binding agreement at this time and termination language called for a 30-day notice and a \$120,000 minimum payment from the City. Upon further question, Interim City Manager Souza advised what the value of discussions with Pacific Bell would be. Councilmember Perea noted the contract with MCI was a \$1 million contract and he was seeing incremental steps into a transition wherein Council would have no say and he wanted assurance staff would in no way be making any switches and changes to move the City into the MCI system stating that would be in direct avoidance of what Council was charged to do.

Lengthy discussion ensued with Information Systems Director Cluff and Mr. Souza responding to questions and/or concerns relative to the contract, ability to go with another carrier, the contract ending on June 30th, technology changes, what the agreement provided for, converting to a new system, rescinding the contract by another means besides the termination clause, lack of Pac Bell and Council information originally, Council hearing only one side of the story at this time, need for a full report, changing termination language relative to staff's authority to sign and a threshold amount for the future, the issue being who would provide the service and how quickly to contract with them, need for accurate comparisons, scheduling a detailed report on October 17th, prior direction to staff to work out details with Pac Bell **(6 - 0)**, enlisting the assistance of a third party to prepare an RFP, and ability to make a decision on October 17th relative to a future RFP and timeline if necessary. Mr. Souza clarified staff would report back on October 10th at 2:00 p.m. with a comparison analysis and timeline to move the process forward. There was no further discussion.

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(2:15 P.M.) APPEARANCE BY JOHN FERDINANDI, JR., TO DISCUSS RAIL CONSOLIDATION AND TO PRESENT A PETITION FOR ACTION

Mr. Ferdinandi gave a brief overview of the issue, submitted a letter and a petition containing 2,081 signatures supporting the rail consolidation, on file in the office of the City Clerk, and requested Council take immediate action to accept four requests in the petition, and authorize \$25,000 (the City's share) to update the 1993 Consolidation Analysis and Plan, appoint a task force, and suspend the Shaw underpass project as outlined in the letter.

Speaking in support or opposition to rail consolidation were: Jerry Kennedy, 2416 W. Home, opposed; Barbara Hunt, 944 "F" Street, opposed; Blanche Milhahn, Jefferson Home Owner, support; Ken Moore, 251 N. Blackstone, support; Dallas Debatin, 109 N. Glenn, support; Ginger Lewis-Reed, 4370 N. Teilman, support; and Sylvia Mehas, support.

Councilmembers spoke to the issue stating they, too, supported consolidation and understood concerns, and

discussion ensued on the study and cost, when COG would be discussing the City's share of funding the study, Councilmember Steitz stating he would schedule the funding issue on October 17th, potential funding sources, Councilmember Perea stating he would be scheduling a ballot measure relative to the City breaking away from the County on the extension of Measure "C", and issues relative to trains/rail lines and need for consensus from the railroad on consolidation. Councilmember Steitz left the meeting at 3:54 p.m. and was absent for the remainder of the meeting. City Attorney Montoy stated a detailed report would be provided on the 17th as there were many issues involved. There was no further discussion.

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(2:20 P.M.) APPEARANCE BY PAUL GARCIA TO PRESENT AWARDS TO COUNCILMEMBER QUINTERO, POLICE OFFICER RAY CAMACHO AND PHILLIP RIVERA

Presentations were made to Phillip Rivera and Councilmember Quintero by Charles Gaona, Board of Directors Vice Chair, Calwa Parks & Recreation District, for their efforts commitment to the Calwa community **(7 - 0)**. Mr. Gaona advised Officer Camacho was unable to be present and would be given his award later. A representative of the Police Department commended the Calwa Parks & Recreation District.

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(2:30 P.M.) PRESENTATION BY FRESNO FIREFIGHTERS ASSOCIATION REGARDING OUTSTANDING LABOR ISSUES - COUNCILMEMBER PEREA

1. COUNCIL DIRECTION REGARDING NEGOTIATIONS

Not present when called. (Removed from the agenda later in the meeting.)

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(3:00 P.M.) RESOLUTION NO. 2000-293 - EXPRESSING THE SENSE OF THE COUNCIL THAT LEGISLATIVE AND FIRST AMENDMENT ACTIVITIES OF ITS MEMBERS ARE FULLY AND EFFECTIVELY PERMITTED WITHIN THE PROPER CONSTRAINTS OF THE LAW, AND WITH DUE REGARD FOR THE RIGHTS OF ALL CITIZENS AND OTHER COUNCILMEMBERS, AND EXPRESSING DISAPPROVAL OF CERTAIN CONDUCT OF COUNCILMEMBER CHRIS MATHYS

City Attorney Montoy gave an overview of the issue; advised after researching the matter as directed no legal authority was found for Council to discipline Councilmembers; stated of greater importance was the issue of First Amendment speech rights and staff was opposed to a censure resolution; noted a revised resolution had been distributed due to a recent federal court decision that further articulated citizens' First Amendment rights; stated the same as Councilmember Mathys had First Amendment rights staff believed Council also had those rights in the event they wanted to proceed with the resolution; and upon request of President Boyajian explained for those in attendance the purpose and content of the resolution.

Speaking in support of Councilmember Mathys were: Arthur Amerian, 2873 W. Silverhill; Michael Haney, 7301 N. Brooks; Alfred Palumbo, 4402 E. Norwich; Barbara Hunt, 944 “F” Street; Karen Elliott, 1461 W. Stuart; Joy Rolex, 1905 N. Thorne; Jerry Kennedy, 2416 W. Home; Allan Larson, 2206 W. Hammond; Mary McPeters, 655 “A” Street, representing Highway City Youth Group and Senior Citizens, who also submitted a petition with signatures in support; Beverly Rocha, 7107 N. Carnegie; Wayne Wittman, 389 N. Fruit; and LaVera Williams, who thanked Council for progress in west Fresno; and an unidentified woman.

Councilmember Ronquillo spoke in support of the resolution stating there were populace politicians who looked for button issues to press in order to create genuine feelings in people and cause them to react; commented on various issues Council had considered resulting in unanimous votes and emphasized the entire Council fought for the people and it was not just one Councilmember championing the complicated issues; **(8 - 0)** stressed there was good behavior and bad behavior, responsible behavior and irresponsible behavior; and clarified what Council was saying was irresponsible behavior, comments and expenditures could put the City at risk.

Acting President Bredefeld thanked those in support of Councilmember Mathys for coming; stated Council was not here this date to dispute Councilmember Mathys’ hard work for his district’s residents and issues; clarified Council initially wanted to censure, *not censor*, Councilmember Mathys meaning to express their disapproval; stated at issue was a Councilmember conducting himself in a reckless, irresponsible and unethical manner and elaborated; stressed it was not his job and he would not stay quiet on a behavior that shed a bad light on the Council adding it would be wrong for Council, after having the information, to ignore it, and made a motion to adopt the resolution.

Referencing comments made in opposition to the nude juice bar, President Boyajian reiterated and confirmed Councilmember Ronquillo’s and Bredefeld’s comments that none of the Councilmembers supported it; stated there were limitations on how far a Councilmember could go emphasizing Council did not have carte blanche to say anything they wanted to even though he wished could; stated members’ districts should be respected and expressed concern with Councilmember Mathys turning in over 2,000 city-wide service requests during his mayoral campaign; and relative to the juice bar clarified businesses had rights adding just because people did not like something did not mean they could ban it.

Relative to the juice bar, Councilmember Mathys expressed his concern and clarified he placed an item on the agenda last week to begin the conditional use permit process in an attempt to ensure in the future that nude bars would not get “slammed” into neighborhoods without the input of area residents but Council voted it down without him being present and elaborated; stated this whole issue was about political retribution dealing with the mayor’s race; relative to pandering to the people noted Acting President Bredefeld spent \$10,000 of taxpayer money during his mayoral campaign to purchase gun locks; relative to district expenditures stated he would welcome an audit as 90% of his expenses were for neighborhood meeting notices adding if one of those notices happened to land in Fresno County that was fine as he felt he worked for the entire valley; clarified if services were needed in the city or county he would continue to fill out a service request and make sure the job got done; reiterated he worked for all of Fresno and not just one district and would continue to do so; thanked those who spoke in support of him adding he was very honored to have served as a Councilmember; stated as Americans everyone had the basic right to free speech and questioned how he could be censured for speaking against the nude bar and if Council was more worried about the constitutional rights of strip clubs than the constitutional rights of families; commented and clarified issues relative to the Wellington project; and concluded stating lawsuits or no lawsuits people had to stand up and do what was right.

Councilmember Perea stated this was a very serious matter and was not about restricting Councilmember Mathys' freedom of speech; stated at issue was: (1) whether Councilmember Mathys utilized City funds for what appeared to be for campaign-like activities to promote his candidacy for the County Board of Supervisors, and (2) mass mailing requirements relative to a flyer that went out into another Councilmember's district which also coincided with the supervisorial district he wanted to run in; relative to the juice bar issue advised Council had already given direction to staff prior to Councilmember Mathys' item to report back with additional information to either strengthen the current ordinance or change regulations to deal with nude juice bars in the future; commented on the Mayor's comments on the issue and the process he used to fund the Promise Keepers and construct the new exhibit hall; and concluded stating Councilmember Mathys had taken out papers to run for the Board of Supervisors and at issue was the process being used to get somewhere.

Brief discussion ensued and issues were clarified by Ms. Montoy, City Clerk Klisch, Interim City Manager Souza and Councilmember Mathys on whether any restaurant could become a nude bar, Councilmember Mathys' absence during the vote on his item last week, the Mayor's role in the exhibit hall process being in collaboration with the entire Council, Councilmember Mathys' notices being delivered, not mailed, only to the area around the juice bar and not to Kerman, and what would prohibit a restaurant from opening as a nude establishment if zoning and all other requirements were met.

On motion of Acting President Bredefeld, seconded by President Boyajian, duly carried, RESOLVED, the above entitled Resolution No. 2000-293 hereby adopted, by the following vote:

Ayes	:	Bredefeld, Perea, Quintero, Ronquillo, Boyajian
Noes	:	Mathys
Absent	:	Steitz

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(3:15 P.M.) APPEARANCE BY BARBARA HUNT REGARDING NEIGHBORHOOD CONCERNS - COUNCILMEMBER MATHYS

Appearance made.

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ADJOURNMENT

There being no further business to bring before the Council, the hour of 5:35 p.m. having arrived and hearing no objections, President Boyajian declared the meeting adjourned.

APPROVED on the 17th day of October, 2000.

ATTEST: _____

Tom Boyajian, Council President

Yolanda Salazar, Assistant City Clerk